

(1941) 11 MAD CK 0013
In the Madras High Court

Madavarvilagam Sri Vaithinathaswami Devasthanam	APPELLANT
Vs	
V. Anantharama Aiyar	RESPONDENT

Date of Decision : 07-11-1941

Acts Referred:

Citation : AIR 1942 Mad 747 : (1942) 55 LW 611 : (1942) 2 MLJ 414

Hon'ble Judges : Somayya, J

Bench : Division Bench

Judgement

Somayya, J.—The landholder, who was the defendant in the trial Court, is the appellant in this second appeal. When he attempted to bring

the ryot's holding to sale under the provisions of Section 111 of the Madras Estates Land Act, the ryot brought the suit for a declaration that the

amount which is sought to be recovered for the non-payment of which the sale was attempted, is not legally due from him. What we are now

concerned with is the claim made by the landholder in regard to the second crop raised on his holding by the plaintiff-the ryot. The allegation of the

landholder was that the water with which the second crop was raised was the water of the tank belonging to himself. He also alleged that even if

the second crop was raised with water from wells dug by the ryots themselves, he is nevertheless entitled to charge for the second crop. The lower

Court held that during the fasli in question the ryot did not use the landholder's water and that the second crop was raised with the aid of wells

constructed by the ryots. On this finding both the Courts held that the landholder is not entitled to any additional rent or charge in respect of the

second crop. The defendant appeals.

2. If the lands are registered as single crop lands as they are in this case, the

ryot is bound to pay an additional charge if he raises a second crop.

with the aid of the landholder's water. If he does so, the landholder is entitled to an additional charge, whether you call it water-rate or additional

rent. In such cases it is usual to find stipulations that if a second crop is raised with the aid of the landholder's water, half the rate which is fixed for

the first crop should be paid, and that is the rate which is claimed in this case and such a charge would be rent whether it is called water cess or by

any other name (see *The Madura Kallalagar Devasthanam Vs. N. Subbiah Ambalam*, . There the ryot took water for the second crop from the

landholder's tank without his permission. It was held that the landholder is entitled to recover additional charge as rent in the Revenue Court. A

case where the ryot takes the landholder's water with his consent would be an a fortiori case. If in this case in any year the ryot takes the water of

the landholder and raises a second crop with the aid of that water, then the landholder is entitled to levy an additional charge and sue for the

recovery of it as rent in Revenue Courts. If the second crop is raised with the aid of wells constructed by the tenants themselves, as held by this

Court in *Periakaruppa Mukkandan v. Raja Bajeswara Sethupathi* (1918) 36 M.L.J. 320: ILR Mad. 475 (F.B.). if there was a contract between

the landholder and the ryot entered into before the date of the Madras Estates Land Act under which the ryot undertook to pay additional rent

even if the crops were raised with the aid of wells dug by the ryot at his own expense, such a contract would be valid and binding on the ryot. In

this case a contract which would come within the principle laid down in this decision was not alleged. It is now too late to ask for a remand for an

investigation whether there was such a contract or not. If in any case such a contract is proved, then the landholder will have the benefit of the

decision in the above case.

3. The second appeal is accordingly dismissed with costs.